

Customer No. 24498
Attorney Docket No. RCA89642
Office Action dated: May 27, 2008

REMARKS

The Office Action mailed May 27, 2008 has been reviewed and carefully considered.
No new matter has been added.

Claims 1-15 and 17-20 are pending.

Claims 1-4, 6, 7, and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent Application Publication No. 2003/0079227 to Knowles (hereinafter "Knowles") in view of United States Patent No. 6,519,412 to Kim (hereinafter "Kim") and further in view of U.S. Patent No. 6,160,545 to Eyer (hereinafter "Eyer"). Claims 5, 8, 9, 11-15, and 17-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Knowles and further in view of Eyer.

The independent claims in the case are Claims 1, 5, and 12.

With respect to Claim 1, said claim recites that the first password in the temporary storage (i.e., the temporary memory) is replaced with the second password responsive to an insertion of the removable memory. None of the cited references teach or suggest this limitation.

For example, the Examiner has admitted that "Knowles fails to explicitly disclose a removable memory for storing said second password or replacing, responsive to an insertion of the removable memory, password in temporary storage with second password" (Office Action, p. 6).

However, in citing Kim as disclosing the preceding limitations, the Examiner has failed to show all of the preceding limitations in Kim. For example, on page 4 of the Office Action, the Examiner continues "In analogous art, Kim discloses a removable memory (i.e. a smart card) for storing password data for viewing restriction purposes (column 4, lines 42-61 and column 6, lines 26-47 - Kim particularly describes an embodiment in which a smart card (removable memory) is inserted and the password data stored on the card is inputted)." Further, the Examiner provides the following support for the preceding, "Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Knowles' system to include a removable memory, as taught by Kim, for the benefit of avoiding the need for a 'password input menu' by using a removable memory (i.e. a smart card) that has the password data therein, so as to input the password data by a card reader in response to inserting the card (column 7, lines 57-62).

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However, neither simply inputting password data from a smart card nor obviating the need for a password input menu correspond to replacing the first password in the temporary storage (i.e., the temporary memory) with the second password responsive to an insertion of the removable memory as recited in Claim 1.

Moreover, the portions of Kim cited by the Examiner disclose "memory 202 for storing preset password data which functions as reference data for allowing the viewing restriction level to be changed" (Kim, col. 4, lines 56-58) and means for inputting password data may be a smart card (Kim, col. 6, lines 32-35). However, in Kim, the preset password data (i.e., REFERENCE DATA) stored in memory 202 is NOT REPLACED with the password data on the smart card, but is instead ONLY COMPARED with the same to determine if the user is permitted to change a viewing restriction level (see, e.g., Kim, FIG. 4; col. 6, lines 46-47; col. 7, lines 19-21; col. 8, lines 1-2, and lines 7-9).

Hence, Kim does not cure the deficiencies of Knowles, and does not disclose all of the above reproduced limitations of Claim 1. Further, Eyer also does not cure the deficiencies of either Kim and/or Knowles, and is silent with respect to the above reproduced limitations of Claim 1.

With respect to Claim 12, the Examiner has rejected the same by simply stating "Regarding claim 12, refer to the rejections of claims 1 and 5". However, Claim 12 includes limitations not recited in Claim 1, including, but not limited to, a receiver and processing circuits. "All words in a claim must be considered in judging the patentability of that claim against the prior art" (MPEP §2143.03, citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). Hence, the Examiner has NOT SET FORTH A PRIMA FACIE REJECTION of Claim 12. Thus, it is respectfully asserted that the rejection of Claim 12 should be withdrawn on this basis alone.

With respect to Claims 1 and 12, it is respectfully asserted that none of the cited references, either taken singly or in any combination, teach or suggest, *inter alia*, "a first password associated with a first programming provider ... a second password associated with a second programming provider" as recited in Claim 1, or "a first password associated with the first programming provider" as recited in Claim 12.

In contrast to the preceding limitations of Claims 1 and 12, Knowles discloses, as cited by the Examiner, "password for a young child - paragraph 0072, lines 1-5" (Office Action, p. 3) and "an IPG that is particular to a first programming provider - paragraph 0071, line 1 -

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paragraph 0074, line 9. For example, the young child can access LOCL 701 but not HBO2 201" (Office Action, p.3) and "older teenager's password-paragraph 0072, lines 1-4" (Office Action, p. 4) and "an IPG that is specific to a second programming, i.e., HBO-paragraph 0073, line 1-paragraph 0074, line 9" (Office Action p. 4).

However, the descriptions of the passwords for the young child and teenager at paragraph 0072 of Knowles make no mention whatsoever of a first programming provider or a second programming provider, let alone any association with the same. Moreover, the Applicant respectfully asserts that an IPG that is specific to a first programming provider or a second programming, as asserted by the Examiner in his rejection of Claims 5 and 12, does not correspond to a password. An IPG is an interactive program guide and not a password.

Thus, it is respectfully asserted that none of the cited references, either taken singly or in any combination, teach or suggest each and every one of the above recited limitations of Claims 1 and 12.

With respect to Claims 1, 5, and 12, it is respectfully asserted that the proposed combination of the prior art would change the principle of operation of the prior art invention being modified, which is prohibited under MPEP §2143.01.

For example, as set forth in MPEP §2143.01.VI:

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (Claims were directed to an oil seal comprising a bore engaging portion with outwardly biased resilient spring fingers inserted in a resilient sealing member. The primary reference relied upon in a rejection based on a combination of references disclosed an oil seal wherein the bore engaging portion was reinforced by a cylindrical sheet metal casing. Patentee taught the device required rigidity for operation, whereas the claimed invention required resiliency. The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change

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in the basic principle under which the [primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.).

Here, as admitted by the Examiner, Knowles performs merging of data from various sources at the data center headend in preparation to be sent to the network operators (see, e.g., page 3 of the Final Office Action mailed May 15, 2007). In direct and opposing contrast, Eyer, as relied upon by the Examiner, allegedly discloses "directly delivering programming to the apparatus via a first transmission media ... and directly delivering programming to the apparatus via a second transmission media distinct from the first transmission media" (Office Action, p. 7).

Hence, the combination results in a substantial reconstruction and redesign of the elements shown in Knowles or Kim as well as a change in the basic principle under which the Knowles or Kim construction was designed to operate. For example, substantial changes to the overall infrastructure of either Knowles or Kim would be required in order to combine one with the other, given their completely opposing approaches to providing programming to a point of consumption, which ultimately imposes differences between Knowles and Kim from the point of consumption at least all the way back to the headend.

Hence, it is respectfully asserted that the combination of Knowles and Eyer is improper under MPEP §2143.01.

Moreover, with respect to Claims 1, 5, and 12 a prior art reference must be considered in its entirety, i.e., as a whole, INCLUDING PORTIONS THAT WOULD LEAD AWAY FROM THE CLAIMED INVENTION. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed Cir. 1983), *cert. denied*, 469 U.S. 851 (1984) (emphasis added) (*see also*, MPEP §2141.02)). Here, Knowles teaches away from Kim as well as the limitations recited in Claims 1, 5, and 12. However, a motivation or suggestion to combine the references in the manner suggested is lacking.

Hence, it is respectfully asserted that Knowles is not a proper reference, and its use in a combination against the pending claims is improper.

Thus, it is respectfully asserted that none of the cited references, either taken singly or in any proper combination, teach or suggest the above recited limitations of Claims 1, 5, and 12.

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"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" (MPEP §2143.03, citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)).

Thus, Claims 1, 5, and 12 are also patentable distinct and non-obvious over the cited references for at least the reasons set forth above.

Claims 2-4 and 19 depend from independent claim 1, claims 6-11 and 20 depend from independent claim 5, and claims 13-15 and 17-18 depend from independent claim 12. Claims 2-4, 6-11, 13-15 and 17-20 have all the features and limitations found in the independent claims from which they depend. Thus, claims 2-4 and 19 are patentable for at least the same reasons as independent claim 1, claims 6-11 and 20 are patentable for at least the same reasons as independent claim 5, and claims 13-15 and 17-18 are patentable for at least the same reasons as independent claim 12.

Moreover, said dependent claims include patentable subject matter in and of themselves and are, thus, patentable distinct and non-obvious over the cited references in their own right. For example, none of the cited references, either taken singly or in a proper combination, teach or suggest the following limitations of Claim 20: "wherein the first password is a master password associated with a satellite transmission media and the second password is a master password associated with a terrestrial transmission media".

In contrast, and as admitted by the Examiner (see Final Office Action dated May 15, 2007, pp. 5 and 11), Knowles simply discloses a parent password (master password) and a child password, but not TWO MASTER PASSWORDS, EACH OF THE MASTER PASSWORDS RESPECTIVELY ASSOCIATED WITH A CORRESPONDING ONE OF THE TWO TYPES OF TRANSMISSION MEDIA, as essentially recited in Claim 20.

In the current Office Action, the Examiner stated the following:

In the claim 1 rejection on page 3 of the office action, examiner points to the Knowles reference that teaches a first password associated with a terrestrial broadcast signal that provides local programming. On page 4 of the office action, examiner explains that Knowles further teaches a second password that is associated with a satellite provider to provide extended channels, such as HBO. Both of these passwords are 'master' passwords in that they provide access to the

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programming they are associated with i.e. extended channels delivered via a satellite system or local channels associated with a terrestrial television system.

However, it is respectfully pointed out that the Examiner's position appears to be inconsistent (see, e.g., p. 3 of the reference Office Action dated May 15, 2007, where the Examiner states "[t]herefore, when the parents enter their master password and the access level is at its highest, they have access to programming from said first and second programming providers without the need to enter their child's password limited to a particular programming provider", where the Examiner has thus shown that only the parents have the master password and the child has a subordinate (non-master) password, even though the Examiner has incorrectly equated programming provider to a channel(s), e.g., HBO) and not to the definition essentially provided throughout the Applicants' specification.

Moreover, the Examiner's position is not supported by Knowles. For example, the cited portion of Knowles, namely paragraph [0071] thereof, discloses the following:

Moreover, parental control blocking criteria by a user (with master password) influences other user's viewing of the programs. For example, if a first user attempts to view a program that meets a blocking criterion set by a second user (with master password), the program will be blocked and the first user will be prevented from viewing the program.

Further, in paragraph [0072] of Knowles, the following is disclosed:

The multiple IPGs support a hierarchy of multiple user passwords. For example, in a household, the parents may have the highest level of password (a master password), the teenager may have a second level password, and the younger children may have lower levels of passwords. A user with a higher level password may override the changes made by users with lower level passwords. A user with a master password can override the changes made by all other users.

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Hence, from the preceding portions of Knowles, it is clear that Knowles discloses a single master password in a hierarchy of passwords.

Thus, reconsideration of the rejections is respectfully requested.

In view of the foregoing, the Applicant respectfully request that the rejection of the claims set forth in the Office Action of May 27, 2008 be withdrawn, that the pending claims be allowed, and that the case proceed to early issuance of Letters Patent in due course.

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It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's representatives Deposit Account No. 07-0832.

Respectfully submitted,

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